

REMARKS

Claims 1, 3-18, and 23-27 are pending in the application with claims 1, 15, and 25 being the independent claims. Claims 15-18 are withdrawn. Claims 1 and 27 are amended. In view of the remarks that follow, Applicant respectfully requests reconsideration.

Request for Non-Entry of Response to Office Action, filed January 11, 2007

Applicant respectfully requests that the “Response to Office Action Under 37 C.F.R. § 1.116,” filed January 11, 2007 be not entered upon filing the accompanying Request for Continued Examination.

Independent Claims 1 and 27

The Office Action indicated that claims 1 and 27 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,893,889 to Harrington. This paper amends claims 1 and 27 to each recite, among other limitations, “an entirely spherical ball bearing.”

The PTO specifies in MPEP §2131 that in order for a reference to anticipate a claim under §102, the reference must teach each and every element recited in the claim.

Applicant submits that claims 1 and 27 are not anticipated by Harrington because Harrington fails to disclose all the respective features of those claims. More specifically, Harrington fails to disclose a prosthetic device having, among other things, “an entirely spherical ball bearing.”

The Office Action identifies the upper end 46 of the threaded post 45 as anticipating the claimed the spherical ball bearing. See Office Action, page 2. However, because the upper end 46 is a part of a post, it is not an entirely spherical or rounded ball and therefore should not properly anticipate a claim element of an “entirely spherical ball bearing,” as recited in claims 1 and 27. While Harrington refers to the upper end 46 as “a generally spherical upper end 46” (column 3, line 25), the post 45 makes the upper end 46 only partially spherical. And a partially spherical end of a post is not an “entirely spherical ball bearing” as recited in claims 1 and 27.

Therefore, Harrington does not properly anticipate either of claim 1 or claim 27. Applicant respectfully requests that the Examiner withdraw the rejection of these claims.

Dependent Claims

Claims 3-14 and 23-26 depend from claim 1, and also are believed to be distinct from the art of record, for example for the same reasons discussed above with respect to the claim 1.

Conclusion

For at least the reasons set forth above, Applicant respectfully requests that the Examiner reconsider and issue a formal notice of allowance.

Please grant any extension of time required to enter this response and charge any additional fees required by this paper to our Deposit Account No. 08-1394.

Respectfully submitted,



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I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on <u>March 5, 2007</u> .
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